



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**VIA UPS**

Mr. Neil Stanton  
Vice President - Refining  
Ergon West Virginia, Inc.  
9995 Ohio River Blvd.  
Newell, WV 26050

**Re: Notice of Violation  
Compliance Evaluation Inspection  
September 23-24, 2013  
EPA ID No. WVD000010058**

**Docket Number: R3-15-NOV-RCRA-24**

Dear Mr. Stanton:

On September 23 and 24, 2013, the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") under the West Virginia Hazardous Waste Management Act ("HWMA"), as amended, Chapter 22-18A, 1994, Series XV, and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. of your Newell, West Virginia facility. Based on that inspection and/or review of other pertinent information, EPA has determined that Ergon West Virginia, Inc. (Ergon or the Facility) is violating regulations promulgated under HWMA and RCRA. The Inspection Report is enclosed. As a result of the findings, the EPA is issuing this **Notice of Violation ("NOV")**. The specific violations are:

1. The facility failed to make a waste determination with regard to several aerosol cans, that were not punctured, in an unlabeled roll-off bin that also contained non-hazardous waste (Photos #27 & 28) in the Cooling Tower Area and in the Maintenance Shop (Photo #88), according to 33CSR20-5 (40 CFR 262.11) which requires a generator of solid waste to determine whether the waste is hazardous or not.
2. In the Bundle Cleaning Area the facility failed to properly store hazardous waste in a dumpster marked hazardous waste that did not have a lid or cover (Photos #31 & 32) per 33CSR20-8 [40 CFR 265.173(a)] which requires a container holding hazardous waste remain closed during storage.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the one cited in this letter, or past violations in any future enforcement action. Any response to this NOV shall be addressed to:

Eric Greenwood  
Land and Chemicals Division (3LC70)  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

  
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Carol Amend, Associate Division Director  
Land and Chemicals Division  
Office of Land Enforcement

July 7, 2015  
Date

Enclosures (2)

cc: T. Fisher, WVDEP w/Enclosure  
E. Greenwood (3LC70) w/o Enclosure  
P. Belgiovane (3LC70) w/o Enclosure